

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

JUL 11 2006

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TADAMASA KITSUKAWA, TSUTOMU AKIYAMA and SHIGEHARU KONDO

Application No. 09/840,327

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 6, 2006. A review has determined that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

On November 29, 2005, the USPTO received from Appellants a faxed "SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT." Further, a "CORRECTED SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT" was received by facsimile at the USPTO on December 5, 2005 correcting an error contained in the Information Disclosure Statement submitted November 29, 2005. It is not clear from the record whether the Examiner considered the corrected Supplemental

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Information Disclosure Statement or whether the Examiner notified Appellants as to why the submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Also, a "RESPONSE TO OFFICE ACTION" was submitted by the Appellants and received by the USPTO via facsimile on December 10, 2005, in response to the Final Rejection mailed October 19, 2005. There is no indication on the record that the Examiner notified Appellants as to the entry status of said amendment by mailing a form PTOL-303 form (e.g., "Advisory Action Before the Filing of An Appeal Brief.")

Clarification with respect to the above described matters is required.

Accordingly, it is

ORDERED that this application be returned to the Examiner:

1) for consideration of the "CORRECTED SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT" received via facsimile December 5, 2005;

2) for appropriate written notification by the Examiner to Appellants of such consideration;

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- 3) to consider the amendment filed Dec. 10, 2005;
 - 4) to notify Appellants in writing of said consideration;
- and
- 5) for such further action as may be appropriate.

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By:



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